

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA, )  
                                )  
                                )  
                                Plaintiff, )  
                                )  
                                )  
                                v. )                              No. 3:17-CR-131-TAV-DCP  
                                )  
                                )  
DUSTIN SCHAUD FOX, )  
                                )  
                                )  
                                Defendants )

## **MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court<sup>1</sup> on February 8, 2018, for a scheduled pretrial conference and motion hearing on the Defendant's Motion for Continuance and Extension of Deadlines [Doc. 19]. Assistant United States Attorney Matthew T. Morris appeared on behalf of the Government. Attorney Gregory P. Isaacs represented the Defendant, who was also present.

The Defendant asks the Court to continue the February 27 trial date in this case and to extend all other deadlines. He contends that the Court recently permitted the substitution of retained counsel Mr. Isaacs. The motion states that Mr. Isaacs has received the initial discovery, which spans over 33,000 pages, and anticipates additional discovery from forensic examinations. The Defendant argues that counsel needs additional time to review discovery and to prepare this

<sup>1</sup> This case was originally assigned to United States Magistrate Judge C. Clifford Shirley, Jr. The undersigned conducted the February 8, 2018 motion hearing in Judge Shirley's absence. The case has since been reassigned to United States Magistrate Judge Debra C. Poplin.

case for trial. The motion states that the Defendant has informed counsel that he does not oppose a trial continuance. The Government has responded [Doc. 20] that it also does not oppose the requested continuance. At the motion hearing, AUSA Morris stated that the Government has no additional discovery to provide in this case but that Mr. Isaacs will have to review the images and videos from this case at the United States Attorney's Office. The parties agreed on a new trial date of August 7, 2018.

The Court finds the ends of justice served by continuing the trial outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Court also finds that continuing the trial for six months is necessary in order to permit counsel the "reasonable time necessary for effective preparation." 18 U.S.C. § 3161(h)(7)(B)(iv). The Court substituted [Doc. 21] Attorney Isaacs as the Defendant's counsel of record on January 17, 2018. Mr. Isaacs needs time to review discovery, prepare and litigate pretrial motions, interview witnesses, confer with the Defendant, and prepare the case for trial. The Court finds that requiring the parties to proceed to trial on February 27 would deprive counsel of the reasonable time necessary to prepare effectively for trial even taking into account his acting with due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, the motion to continue the trial and extend pretrial deadlines [Doc. 19] is **GRANTED**, and the trial of this matter is reset to **August 7, 2018**. The Court finds that all the time between the filing of the Defendant's motion on January 16, 2018, and the new trial date of August 7, 2018, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(D) and -(7)(A)-(B). With regard to other scheduling in this case, the Court extended the motion deadline to **March 22, 2018**. Responses to motions are due on or before **April 5, 2018**. The parties are to appear before United States Magistrate Judge Debra

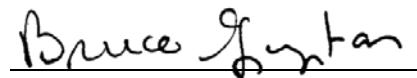
C. Poplin for a final pretrial conference on **July 24, 2018, at 11:00 a.m.** This date shall also be the new deadline for concluding plea negotiations and providing reciprocal discovery. The Court instructs the parties that all motions *in limine* must be filed no later than **July 23, 2018**. Special requests for jury instructions shall be submitted to the Chief District Judge no later than **July 27, 2018**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

- (1) The Defendant's Motion for Continuance and Extension of Deadlines [**Doc. 19**] is **GRANTED**;
- (2) The trial of this case is reset to commence on **August 7, 2018, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, Chief United States District Judge;
- (3) All time between the filing of Defendant Fox's motion on **January 16, 2018**, and the new trial date of **August 7, 2018**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The deadline for filing pretrial motions is extended to **March 22, 2018**;
- (5) Responses to motions are due on or before **April 5, 2018**;
- (6) The parties shall appear before United States Magistrate Judge Debra C. Poplin for a final pretrial conference on **July 24, 2018, at 11:00 a.m.** This date shall also be the deadline for concluding plea negotiations and providing reciprocal discovery;
- (7) All motions *in limine* must be filed no later than **July 23, 2018**; and
- (8) Special requests for jury instructions shall be submitted to the Chief District Judge no later than **July 27, 2018**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

**IT IS SO ORDERED.**

ENTER:

  
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United States Magistrate Judge